

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JERRY C. STERNS, 12456-055,

Petitioner,

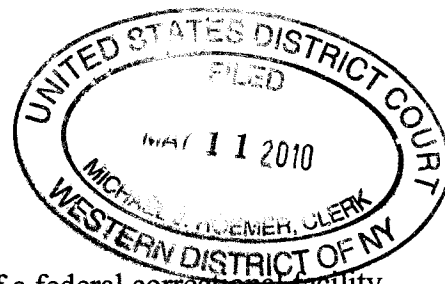
-v-

UNITED STATES OF AMERICA,

Respondent.

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DECISION AND ORDER  
10-CV-6232L

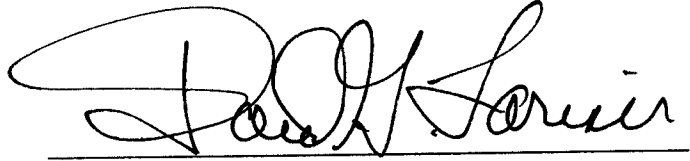


On April 26, 2010, petitioner, Jerry C. Stearns, an inmate of a federal correctional facility, filed a *pro se* motion under 28 U.S.C. § 2241. The Court has reviewed the petition, and cannot determine whether this is in fact a proceeding under 28 U.S.C. § 2241, over which the Court would have jurisdiction, or if it is a petition under § 2255, over which the Court would not have jurisdiction because it is a second or successive petition with respect to the same judgment of conviction.

A motion under § 2255 is one "directed to the sentence as it was imposed, not to the manner in which it is being executed." *Dioguardi v. United States*, 587 F.2d 572, 573 (2d Cir. 1978). In contrast, a motion under § 2241 challenges the execution, not the imposition, of the sentence. See *Chambers v. United States*, 106 F.3d 472, 474 (2d Cir. 1997) (disregarding a prisoner's mislabelling of a § 2255 petition and instead look to the requested relief). Petitioner has not indicated what relief he seeks from this Court, nor the basis for the relief. He states that he "will offer in his docketed brief argument and proof of necessity of this motion." However, no brief has been filed.

Petitioner must amend the petition to indicate the relief he seeks and the basis for that relief by **June 16, 2010**. If petitioner fails to amend the petition by **June 16, 2010**, the action shall be closed by the Court with no further order.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

DATED:

May 11, 2010  
Rochester, New York